

PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA

Project File Number, Description, and Location

PDC04-053, Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District and subsequent permits to allow demolition of the existing restaurant and construction of up to 5,500 square feet for commercial uses and on a 0.46 gross acre site at the southwest corner of West Hedding Street and Coleman Street (Pinn Brothers Properties Limited Partnership, Owner; Pinn Brothers Construction, Developer). Council District: 3

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

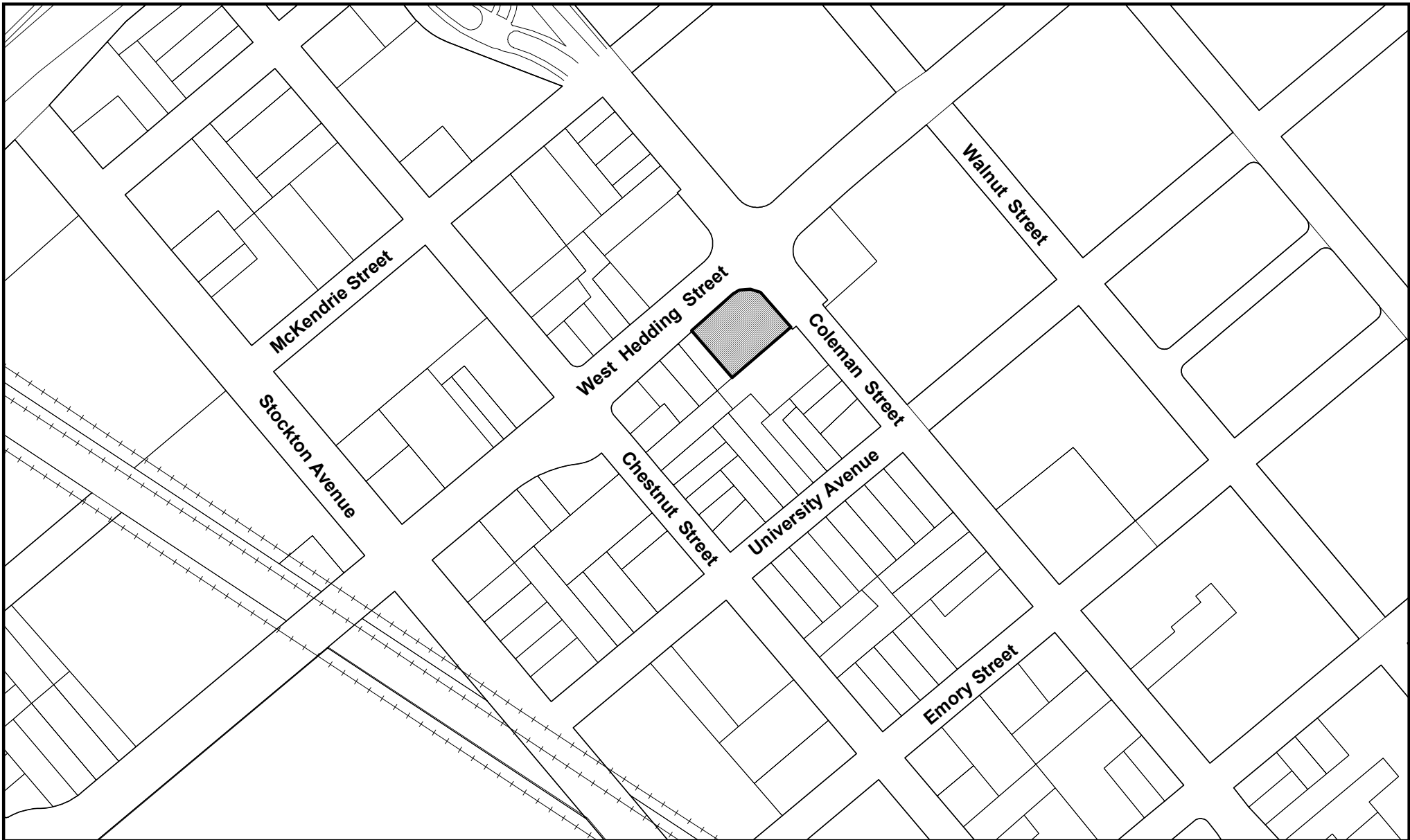
Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on Thursday, October 7, 2004, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **October 8, 2004** and ends on **October 27, 2004**.

A public hearing on the project described above is tentatively scheduled for November 10, 2004 at 6:00 p.m. (Planning Commission) and December 7, 2004 at 7:00 p.m. (City Council) in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the Joyce Ellington Branch Library at 491 E. Empire St., San José, CA 95112, and online at <http://www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2004.htm>. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Lee Butler** at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: October 8, 2004

Deputy



Scale: 1"=280'
Date: 06/02/2004



File No: PDC04-053

District: 3

Quad No:66

DRAFT
MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Coleman Crossings by Pinn Brothers

PROJECT FILE NUMBER: PDC04-053

PROJECT DESCRIPTION: Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District and subsequent permits to allow up to 5,500 square feet for commercial uses and demolition of the existing structure on a 0.46 gross acre site

PROJECT LOCATION & ASSESSORS PARCEL NO.: Southwest corner of Hedding St. and Coleman Ave. (879 Coleman Ave.); 259-01-078

COUNCIL DISTRICT: 3

NAME OF APPLICANT: Pinn Brothers Construction

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:
1475 Saratoga Ave., Suite 250, San Jose, CA 95129

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

1. The following construction practices shall be implemented during all phases of construction for the proposed project.
 - a) Water all active construction areas at least twice daily or as often as needed to control dust emissions.
 - b) Cover all trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.

- c) Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
 - d) Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
 - e) Sweep public streets daily, or as often as needed, with water sweepers, to keep streets free of visible soil material.
 - f) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
 - g) Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust.
 - h) Limit traffic speeds on unpaved roads to 15 mph.
 - i) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - j) Replant vegetation in disturbed areas as quickly as possible.
2. The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
 3. The project shall comply with the City of San Jose's Grading Ordinance, including erosion and dust control during site preparation, and with the City of San Jose Zoning Ordinance requirement for keeping adjacent streets free of dirt and mud during construction.
 4. The project shall include Best Management Practices (BMP) for reducing contamination in storm water runoff both during construction and as permanent features of the project. These features would include, for example, minimizing the amount of land disturbance and impervious surface, regular maintenance and sweeping of parking lots and driveways, installation of inlet filters / biofilters or similar controls in storm water catch basins, and stenciling on-site catch basins to discourage illegal dumping.
 5. Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
 6. The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components.
 7. Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.
 8. Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9 a.m. to 5 p.m. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors and idling trucks are not permitted. The developer shall be responsible for educating

all contractors and subcontractors of said construction restrictions. Rules and regulation pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of a developer appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site. The Director of Planning, at his discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the developer.

9. All tenant spaces shall have forced air HVAC systems to allow the windows to remain closed in order to reduce the interior noise level to 45 DNL or less.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **October 27, 2004**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: October 8, 2004

Deputy

Adopted on: _____

Deputy

PUBLIC HEARING NOTICE

The Planning Commission and then the City Council of the City of San José will consider a **Planned Development Rezoning** at a public hearing in accordance with Title 20 of the San José Municipal Code on:

Wednesday, November 10, 2004

6:00 p.m.

City Council Chambers, Room 205

City Hall

801 North First Street

San Jose, CA 95110

Tuesday, December 7, 2004

7:00 p.m.

City Council Chambers, Room 205

City Hall

801 North First Street

San Jose, CA 95110

The project being considered is:

PDC04-053. Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow demolition of the existing restaurant and construction of up to 5,500 square feet for commercial uses on a 0.46 gross acre site, located at/on the southwest corner of West Hedding Street and Coleman Street (879 COLEMAN AV) (Pinn Brothers Properties Limited Partnership, Owner). Council District 3. SNI: None. CEQA: Mitigated Negative Declaration.

Reports, drawings, and documents for this project are on file and available for review, and a permit with recommendations will be available for your review during the week of the public hearing from **9:00 a.m. to 5:00 p.m.**, Monday, Wednesday, Fridays, and from **10:00 a.m. to 5:00 p.m.** Tuesday and Thursdays at:

Department of Planning, Building and Code Enforcement

801 North First Street, Room 400

San José, CA 95110

(408) 277-4576

www.ci.san-jose.ca.us/planning/sjplan/

You are welcome to attend and to speak on this issue. To arrange an accommodation under the Americans with Disabilities Act to participate in this meeting, please call (408) 277-4576 (Voice) at least 48 hours before the meeting.

** If you choose to challenge this land use decision in court, you may be limited to only those issues you, or someone else, raised and discussed at the public hearing or in written correspondence delivered to the City at or prior to the public hearing.*

Comments and questions are welcome and should be referred to the **Project Manager, Lee Butler**, at the e-mail address: lee.butler@sanjoseca.gov in the Department of Planning, Building and Code Enforcement. Please refer to the above file number for further information on this project.



Joseph Horwedel,

Deputy Director, Plan Implementation Division

Dated: **October 01, 2004**

Lee Price, CMC

City Clerk

Noticing Radius: **500 ft**

SECTION 20.120.400 OF THE SAN JOSE MUNICIPAL CODE
ESTABLISHES A FORMAL PROTEST PROCEDURE FOR REZONINGS
AND PREZONINGS BEFORE THE CITY COUNCIL

If you are the owner of property to be rezoned, or if you own property adjacent to or across the street from a proposed rezoning or prezoning, you may file an Official Protest. Such protest must be made on a form provided by the Director of Planning and must be filed in the Department of Planning, Building and Code Enforcement **by 5:00 p.m.** on the fifth day before the City Council opens its public hearing on the proposal (that is, the Thursday before a Tuesday hearing). A separate protest petition shall be filed for each separate protesting site. Contact the Department of Planning, Building and Code Enforcement if you have any questions.